

# Not Intended for Publication or Citation

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
THOMAS SCOTT DANFORD ) CASE NO. 09-15254  
 )  
 )  
Debtor )

**DECISION AND ORDER**  
**DENYING MOTION TO RECONSIDER**

At Fort Wayne, Indiana, on July 23, 2010.

The court's order of July 12, 2010, concluded that the debtor had not properly served its objection to the Indiana Department of Revenue's claim, or the associated notice of that objection, because they had not been served upon the Indiana Attorney General. The order directed the debtor to effectuate proper service, within fourteen days, or the claim objection might be overruled, without prejudice. The debtor promptly asked the court to reconsider the order and it is that motion which is presently before the court.

The debtor argues that claim objections are not contested matters, and so Rules 9014(b) and 7004, the rules which were the basis for the court's conclusion that the Attorney General was to be served, do not apply. Instead, counsel contends the issue is governed by Rule 3007(a), which only requires service upon the claimant, and that requirement has been satisfied because both the objection and the notice of it were served upon the Indiana Department of Revenue at the address listed in the claim.

Debtor's argument that claim objections are not contested matters, and so are not subject to the service requirements of Bankruptcy Rule 9014(b) and 7004, is not without support. See e.g., In re Arnott, 388 B.R. 656 (Bankr. W.D. Pa. 2008); In re Hensley, 359 B.R. 68 (Bankr. D. Kan. 2006);

In re Anderson, 330 B.R. 180 (Bankr. S.D. Tex. 2005); In re Hawthorne, 326 B.R. 1 (Bankr. D. D.C. 2005). The court will also acknowledge that serving a claim objection only at the address stated in the creditor's proof of claim is simpler (and may even be preferable) than having to look elsewhere for direction. Nonetheless, the drafters of Rule 9014 certainly believed that claim objections, even though they are initiated by something other than a motion, constituted contested matters and were subject to its requirements. See, Fed. R. Bankr. P. Rule 9014, Advisory Committee Note (1983) ("the filing of an objection to a proof of claim . . . creates a dispute which is a contested matter."). Those who drafted Rule 3007 had the same opinion. See, Fed. R. Bankr. P. Rule 3007, Advisory Committee Note (1983) ("The contested matter initiated by an objection to a claim is governed by Rule 9014."). Furthermore, the vast majority of decisions that have considered the issue have concluded that an objection to a proof claim initiates a contested matter within the scope of Rule 9014. See e.g. In re Levoy, 182 B.R. 827, 834 (9th Cir. BAP 1995); In re Simmons, 765 F.2d 547, 552 (5th Cir. 1985); In re Laughlin, 210 B.R. 659, 660-61 (1st Cir. BAP 1997); United States v. Oxylynce Corp., 115 B.R. 380 (N.D. Ga. 1990); In re Boykin, 246 B.R. 825, 827 (Bankr. E.D. Va. 2000); In re Morrow, 2003 WL 25273857 (Bankr. D. Idaho 2003). See also, In re Myron, 2010 Bankr. LEXIS 285 (Bankr. N.D. Ind. 2010). As such, it should be served in the manner provided by Rule 7004. Fed. R. Bankr. P. Rule 9014(b).

As for the argument that Rule 3007 creates a different rule for serving objections to claims, that is not the case. To the extent relevant here, Rule 3007 says only that the objection "shall be mailed or otherwise delivered to the claimant . . .," Fed R. Bankr P. Rule 3007(a); it does not specify where. One must look elsewhere for those instructions, and that elsewhere is Rule 9014(b) with its reference to Rule 7004. Fed. R. Bankr. P. Rule 9014(b) ("The motion shall be served in the manner

provided for service of a summons and complaint by Rule 7004.”). Where service is made upon a “state or municipal corporation or other governmental organization thereof,” Rule 7004 requires “mailing a copy . . . to the person or office upon whom process is prescribed to be served . . . by the law of the state in which service is to be made . . .” Fed. R. Bankr. P. Rule 7004(b)(6). The need to look to state law for direction requires referencing Indiana Trial Rule 4.6 and “[i]n the case of a state governmental organizations” it requires service to be made upon “the executive thereof and upon the Attorney General.” Ind. T.R. 4.6(A)(3) (emphasis added).

The motion to reconsider is DENIED.

*/s/ Robert E. Grant*  
Chief Judge, United States Bankruptcy Court